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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,362	06/23/2005	Viatcheslav Dmitrievich Shapovalov	0065.0001US1	3493
29127	7590	06/16/2009		
HOUSTON ELISEEVA 4 MILITIA DRIVE, SUITE 4 LEXINGTON, MA 02421			EXAMINER ZHU, WEIPING	
			ART UNIT	PAPER NUMBER
			1793	
			MAIL DATE	DELIVERY MODE
			06/16/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/540,362

Applicant(s)

SHAPOVALOV ET AL.

Examiner

WEIPING ZHU

Art Unit

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. Claims 1-21 are currently under examination, wherein no claim has been amended in applicant's amendment filed on May 18, 2009.

Status of Previous Rejections

2. All the previous rejections of claims 1-21 as stated in the Office action dated December 24, 2008 are maintained as follows.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1-6, 8-18, 20 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Schulze (US 4,561,947) as stated in the Office action dated December 24, 2008.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schulze ('947) as stated in the Office action dated December 24, 2008.

Response to Arguments

5. The applicant's arguments filed on May 18, 2009 have been fully considered but they are not persuasive.

First, the applicant argues that in Schulze ('947), the usage of thiourea is preferred over the usage of the alkaline cyanide leaching solution (col. 1, lines 11-18); that without the presence of either thiourea or the alkaline cyanide leaching solution, the method of Schulze ('947) cannot occur; and that neither thiourea nor the alkaline cyanide leaching solution belongs to the exclusive group of complexing agents recited in the instant claims 1-6, 8-18, 20 and 21. In response, the examiner notes that Schulze ('947) discloses treating the ore with oxygen-containing oxidants such as ferric salts, chlorine, peroxides, nitrates and chlorates in the presence of a solvent and a reduction agent (col. 2, lines 1-7 and 44-64), which meet all the claim limitations for the exclusive group of complexing agents recited in the instant claims 1-6, 8-18, 20 and 21. Schulze ('947) further discloses that the use of thiourea is preferred over the usage of the alkaline cyanide leaching solution as asserted by the applicant in order to reduce the leaching time and increase the yield (col. 1, line 65 to col. 2 line 13). However, the use of thiourea is not required. The method of Schulze ('947) would inherently work without the presence of thiourea in recovering noble metals from ores, only with a longer leaching time and a reduced yield.

Second, the applicant argues that according to Schulze ('947), if thiourea is not present, neither should a reduction agent be present. In response, the examiner notes that Schulze ('947) discloses that the reduction agent is introduced to prevent the oxidation of the thiourea completely, without disadvantageously influencing the extraction of the noble metals from the ore; and a high redox potential is maintained in the range of 250-600 mV in the digestion leaching liquor to achieve the greatest dissolving speeds for the noble metals (col. 4, lines 57-68), indicating only a portion of reduction agent would be used to prevent the oxidation of the thiourea completely and the reduction agent would be present if thiourea is not present.

Third, the applicant argues that the examiner's reliance on MPEP 2112.01 and *In re Best* is improper and Schulze ('947) does not disclose the claimed reaction product. In response, the examiner notes that MPEP 2112.01 and *In re Best* were referenced in the ground of rejection because the claimed reaction products of the oxidant and the reducing agent include additional oxidizing agents (e.g. radicals). These reaction products are clearly related to the method of making the products because such method would directly affect the identity and properties of the product. That would be the reason that the *In re Best* requires the claimed and prior art products are identical or substantially identical in structure or composition, or are produced by identical or substantially identical processes. In the instant case, the method as claimed and that of the prior art are substantially identical, and therefore it is reasonable to assume that the resulting products are likewise identical. Even though MPEP 2112.01 by its title relates to composition, product and apparatus claims, it is related to process claims too for the

same reason. The citation to MPEP 2112.01 [R-3] I and *In re Best* is therefore considered proper in the present instance.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Weiping Zhu whose telephone number is 571-272-6725. The examiner can normally be reached on 8:30-16:30 Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on 571-272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Wyszomierski/
Primary Examiner
Art Unit 1793

WZ
6/11/2009